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## IMPORTANT DECISIONS

Andrade Loses Suit  
Against Gus.  
Schumann.

LITTLE DECIDES  
A LAND CASE

Judge Gear Thinks Honolulu  
Attorneys Can Earn \$1000  
a Month.

Judge Gear delivered a written opin-  
ion yesterday in the case of John S.  
Andrade vs. The Territorial Stables  
Company and G. Schumann, sustaining  
the demurrer, and dissolving the in-  
junction. Andrade and Schumann were  
partners, the former owning 233 shares  
and the latter 515 shares. It was al-  
leged that the contract provided that  
neither party could sell his stock with-  
out the consent of the other, and that  
in violation thereof Schumann was  
about to secure control of the majority  
of stock and oust Andrade as manager.  
A temporary injunction was granted  
restraining Schumann from such action,  
and the case came up on demurrer. In  
his opinion Judge Gear says:

"The demurrer to the bill complains on  
two grounds. First, on the ground that  
the agreement is illegal and void as  
against public policy. Second, upon the  
ground that plaintiff has an adequate  
and complete remedy at law.

"Upon argument, no sufficient reason  
was shown to the Court why it was not  
true that complainant had a plain,  
speedy, adequate and complete remedy  
at law, for, if the contract was valid,  
and defendant used his influence in hav-  
ing Andrade removed from his position as  
manager of the corporation, the law  
would fix the measure of damages, and  
plaintiff's remedy would be an action for  
damages for a breach of the contract.

"No reason appears to the Court why  
these damages could not be easily ascer-  
tained, and that reason alone should be  
sufficient to induce this Court to sustain  
the demurrer.

"The bill stating no grounds for relief  
in equity, the demurrer must be sustain-  
ed on this ground. It would appear,  
however, from the rules stated below,  
that it is not certain that this contract is  
valid. . . . In the present case there is  
a direct pecuniary consideration, nam-  
ely the securing to the plaintiff the po-  
sition of manager of the corporation.

"Let the demurrer be sustained and the  
bill dismissed.

"GEAR, Judge."

HONOLULU INVESTMENT COM-  
PANY WINS.

Judge Little handed down an opinion  
yesterday in the case of the Honolulu In-  
vestment Company vs. Helen K. Rowland  
et al., an action to quiet title, which was  
tried to the court. The decision is, in  
part, as follows:

"First—This is an action to quiet title  
to land in Honolulu, consisting of two  
pieces, the first being described in Land  
Commission Award No. 131, Royal Pat-  
ent 1640, the second being described in  
Royal Patent 1694. The plaintiff claims  
a fee simple title to an undivided one-  
half of this property. The court finds  
that the plaintiff, the Honolulu Invest-  
ment Company, Limited, is a corporation  
existing under and by virtue of the laws  
of the Territory of Hawaii.

"Second—The Court finds that Theo-  
philus Metcalf during his lifetime be-  
came and was at the time of his death  
the owner in fee simple of the property  
described in the complaint and that said  
property was devised by the last will and  
testament of the said Theophilus Metcalf  
to the children of Frank Metcalf lawfully  
begotten and living at the time of the  
death of Frank Metcalf.

"Third—The Court finds that Emma  
Metcalf Ikaika was the daughter of  
Frank Metcalf and Alice Metcalf and  
that Frank Metcalf and Alice Metcalf  
were not lawfully intermarried at the  
time of the birth of Emma Metcalf Ikaika,  
and that Frank Metcalf and Alice  
Metcalf subsequently lawfully intermar-  
ried, that Emma Metcalf Ikaika was the  
lawfully begotten child of Frank Metcalf  
and at the death of Frank Metcalf be-  
came a devisee under the will of Theo-  
philus Metcalf.

"Fourth—The Court finds that Emma  
Metcalf Ikaika upon the death of Frank  
Metcalf became entitled to an undivided  
one-half of the property in question in  
fee simple.

"Fifth—The Court further finds that  
the plaintiff acquired all the rights of  
Emma Metcalf Ikaika to this property.

"Sixth—The Court finds that the plain-  
tiff owns in fee simple an undivided one-  
half of the premises described herein  
referred to in plaintiff's bill of complaint.  
"A judgment will be given for the  
plaintiff as prayed for in accordance  
with the views herein expressed when  
presented by counsel for the plaintiff."

Geo. A. Davis and Robertson & Wilder  
for plaintiff; Thomas Fitch for Thos.  
Metcalf and Frank Godfrey, trustees;  
Andrews, Peters & Andrade for Emma  
M. Nakuina; Kinney, Ballou & McClanahan  
for Helen Rowland and James Pros-  
ser

HARRISON-MAGOOD CASE.

Judge Gear did not render a decision  
yesterday in the motion for nonsuit in  
the case of Harrison vs. Magood. At the  
opening of court in the morning, he ex-  
cused the jury until 1:30 o'clock, when at  
that time excused it further until Mon-  
day morning. In the afternoon the at-  
torneys presented additional arguments  
in support of the motion for nonsuit, but  
the court reserved decision until today.

JUDGE LITTLE THANKS JURY.

Judge Little, also excused the jury yester-  
day, stating that he had no further  
need of them, and thanking its members  
for their courteous treatment and prompt  
attendance at court. He will probably  
remain here next week to attend the ses-  
sions of the Supreme Court as Associate  
Justice, and may hear one or two cases,  
without a jury.

QUESTION OF ATTORNEY'S FEES.

Yesterday morning Judge Little heard

evidence on a motion for allowance of  
attorney's fees to the firm of Gear &  
Humphreys in the case of Kaku Kap-  
kiki, a spendthrift. This is the case  
wherein J. A. Magood is guardian, and  
in which a former unsuccessful attempt  
was made by the attorneys named to re-  
move him. The case at that time was  
heard by Judge Perry, who refused to  
grant the application, and it was carried  
to the Supreme Court, with the result  
that the lower court was affirmed. Judges  
Gear and Humphreys were attorneys for  
the spendthrift in the former proceeding,  
and through Attorney George Davis,  
made application yesterday for an attor-  
ney's fee of \$500 for their work in the  
former case.

Judge Gear was put on the stand in  
support of the motion, and testified that  
\$1,000 a month was not too much for attor-  
neys to earn in Honolulu. Magood re-  
sisted the attempt to secure such a fee,  
and asked if he was not entitled to the  
same amount for defending the trust  
from what he believed was prejudicial to  
his ward's interest, namely, the effort  
to oust him from the guardianship. In  
the argument which followed Mr. Ma-  
good naively stated that he defended the  
case (the motion to oust him) with as  
much skill and effort as if he was to get  
a large fee.

The examination of Judge Gear let  
some interesting light upon the question  
of attorneys' fees in this city.

"Did you consider that you had a good  
case?" asked Mr. Davis of Judge Gear.  
"I thought the case was invincible; I  
don't see yet how Judge Perry could  
have refused to terminate the spendthrift  
trust."

"Then you thought you were going to  
be successful?"

"I had no reason to believe otherwise.  
I thought we had the case won," said  
the witness.

"You carried it to the Supreme Court?"

"Yes, it was taken to the Supreme  
Court and affirmed, though how I can't  
understand."

"How long were you working on the  
case?"

"The trial occupied over a week, and  
the case was afterward argued to the  
Supreme Court. I couldn't see how she  
could be a spendthrift. Mr. Magood was  
her guardian when she was a minor, and  
then when she married, he was appoint-  
ed her guardian as a spendthrift. She  
didn't have any property at that time, as  
far as I could learn."

"Did this woman ever pay you any-  
thing as a retaining fee?"

"No, not a cent. We supported her  
for a year and a half."

"What do you think is a reasonable re-  
muneration for your services?"

"We were to get \$750 from the estate in  
case we were successful, but I think  
about \$500 would be a reasonable fee."

Mr. Magood then cross-examined the  
witness on this point.

"Was this agreement made only in case  
you won the suit?" he asked Judge Gear.

"No, there was no stipulation of that  
kind. I knew the agreement was no  
good in case we did not win, as she had  
no property of her own. We advanced  
her \$50, bought her a pony and saddle  
and other things."

"You received payment for that, did  
you not?"

"I think so."

"You think \$500 a reasonable attorney's  
fee, then?"

"I think it is about right."

"Do you think the attorney for the  
guardian should have the same fee; he  
did the same work, and went through  
the same trial as you did."

"Yes, he worked as hard as we did in  
defending. I never thought that the law  
allowed the guardian a fee. I did not  
believe there was any defense, and don't  
think you should have defended her."

"But the defendant won, did he not?"

"Yes."

"Upon what do you base your claim for  
\$500?"

"We were in court for two weeks. If  
an attorney couldn't make \$1,000 a month  
while actually engaged in court, how  
would he make a living outside? You  
must take into consideration the time  
spent in education and the days he is not  
in court."

"Then you think \$500 is a reasonable  
fee for the service you performed?"

"I do. It is not a bit too large. I think  
the fee should be in proportion to the  
amount of the estate."

"What was the value of the estate?"

"About \$10,000," continued Judge Gear.

"The attorneys in Fair will case received  
half a million dollars. I remember one  
case at Santa Cruz where the attorneys  
were in court for a week, and received  
\$100,000 for their services. Then again, in  
this court, in an estate of half a million  
dollars, an attorney applied for a fifty-  
dollar fee for probating the will. Five  
thousand was a good deal nearer the  
amount he should have received."

Following Judge Gear, J. T. De Bolt  
was called, and testified that he did not  
think \$500 was an unreasonable amount  
for the labor performed in this case.

The matter was then argued to the  
court, and taken under advisement by  
him.

COURT NOTES.

The case of Yee Tai Co. vs. Wong Tai  
has been dismissed, the appeal having  
been withdrawn.

An additional report has been filed in  
the matter of the estate of James R. Ke-  
aula, late of Kau, Hawaii. The adminis-  
trator has received the sum of \$3,335 and  
expended \$3,335.50, leaving a balance due  
him of eighty cents.

In the case of the Harrison Mill Co. vs.  
Walrus Hotel Co., in account, defendant  
has filed a general denial, stating that  
it owes nothing to the plaintiff, and  
never was so indebted.

The master's report in the guardianship  
of Ethel P. N. Gay was confirmed and  
the guardian, W. O. Smith, ordered dis-  
charged.

In the case of Julia Kalehoni et al. vs.  
C. Lal Young, defendant filed an answer  
stating that he no longer has an inter-  
est in the property nor claims any, and  
asks that the case be dismissed.

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